

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In Re: 19-10138-CAB)	Chapter 7 Proceeding
John B. Gales and Robin L. Gales)	
Debtor)	April 25, 2019

STIPULATED MOTION FOR RELIEF FROM THE AUTOMATIC STAY

U.S. Bank National Association, as Trustee for Structured Adjustable Rate Mortgage Loan Trust, Mortgage Pass-Through Certificates, Series 2006-4 (hereinafter “the Movant”) moves this Court to enter an order granting it relief from the automatic stay provisions of 11 U.S.C. § 362 upon the following grounds:

1. A petition under Chapter 7 of the United States Bankruptcy Code was filed with respect to the Debtors on April 4, 2019.
2. On February 23, 2006, John B. Gales and Robin L. Gales executed a promissory note in the original principal amount of \$523,950.00 in favor of CTX Mortgage Company, LLC. A copy is attached hereto as Exhibit A. The Movant is in possession of the original note and is entitled to enforce said note and mortgage.
3. To secure said note, John B. Gales and Robin L. Gales mortgaged to Mortgage Electronic Registration Systems, Inc. as nominee for CTX Mortgage Company, LLC the premises known as 759 Fairbanks Turn, Quechee, VT 05059, by virtue of a mortgage, dated February 23, 2006 and recorded March 1, 2006 in Volume 400 at Page 549 of the Hartford Vermont Land Records. A copy is attached hereto as Exhibit B.
4. All rights and remedies under the Mortgage have been assigned to the Movant pursuant to an assignment of mortgage. A copy of the assignment of mortgage is attached

hereto as Exhibit C.

5. Upon information and belief, the subject property was owned by the Debtor as of the date of the filing of the petition.

6. The Debtor's Statement of Intentions indicates that the Debtor is surrendering the property.

7. There is no other collateral to secure the Note.

8. As of April 4, 2019, the loan is contractually due for the February 1, 2016 payment and the outstanding balance on said note and mortgage owed the Movant was \$572,034.62, plus interest, late charges, collection costs, and reasonable attorney's fees.

9. Schedule C of the Debtor's Voluntary Petition does not list an exemption for the subject property.

10. Schedule A of the Debtor's Voluntary Petition lists the value of the premises as \$413,600.00.

11. Upon information and belief, the encumbrances on the Property listed in the Schedules or otherwise known, including but not limited to the encumbrances granted to Movant: (i) Quechee Lakes Landowners' Association, Inc. \$14,000.00; (ii) Movant \$572,034.62; and (iii) Ledyard National Bank \$69,991.00.

12. The estimated total encumbrances on the subject property is \$656,025.62.

13. Pursuant to 11 U.S.C. § 362(d)(1), cause exists for relief from the automatic stay for the following reasons:

(a) Movant's interest in the Property is not adequately protected.

14. Pursuant to 11 U.S.C. § 362(d)(2)(A), Debtors have no equity in the Property; and pursuant to § 362(d)(2)(B), the Property is not necessary for an effective reorganization.

15. Based on the facts set forth in this motion, the Movant also requests that this court order that Bankruptcy Rule 4001(a)(3) is not applicable so that Movant may immediately enforce and implement the requested order modifying the automatic stay.

16. Prior to the filing of the motion opposing counsel was contacted to attempt to obtain a stipulation to the relief sought.

17. The Debtor, through counsel, and the Trustee have consented to the relief sought in this motion.

18. The Movant hereby gives notice that upon the granting/consideration of this motion, it may assess the Debtor's account with reasonable attorney's fees and costs in connection with the preparation, filing, and prosecution of this Motion for Relief from Stay. Said note and mortgage identified previously herein contain provisions allowing the Movant to collect reasonable attorney's fees and costs in connection with enforcing the note and mortgage. In the event the Debtor receives a discharge, such fees and costs shall be non-recourse against the Debtor unless included in a reaffirmation agreement.

WHEREFORE, Movant prays that this Court issue an Order terminating or modifying the stay and granting the following:

1. Relief from the stay allowing Movant and any successors or assigns to proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property.

2. That the 14-day stay described by Bankruptcy Rule 4001(a)(3) be waived.
3. For such other relief as the Court deems proper.

U.S. Bank National Association, as Trustee for
Structured Adjustable Rate Mortgage Loan Trust,
Mortgage Pass-Through Certificates, Series 2006-4

By /s/Andrew S. Cannella

Andrew S. Cannella

The Movant's Attorney

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Debtor)

ORDER GRANTING MOTION FOR RELIEF

This matter came on before the Court on the Motion of U.S. Bank National Association, as Trustee for Structured Adjustable Rate Mortgage Loan Trust, Mortgage Pass-Through Certificates, Series 2006-4 (hereafter, the "Movant"). The motion was served pursuant to the Order and Notice and Opportunity procedures established by VT LBR 2002(e) and VT LBR 4001(c).

IT IS HEREBY ORDERED that the automatic stay instituted upon filing of the within bankruptcy is hereby modified pursuant to 11 U.S.C. § 362(a) as to the Movant's secured lien interest in real property known as **759 Fairbanks Turn, Village of Quechee, VT, 05059** to the extent that Movant and its successors and assigns are free to pursue applicable non-bankruptcy law with respect to such lien interests; and

IT IS FURTHER ORDERED that, as the Debtor's Statement of Intentions indicates the subject real property is to be surrendered, the 14-day stay of Fed.R.Bankr.P. 4001(a)(3) is not applicable and the Movant may immediately enforce and implement this order; and

IT IS FURTHER ORDERED that this order also grants relief from stay to any holder of a subordinate lien against the same property to allow such lien holder to pursue its rights, to bid at a sale, to redeem, and/or to enforce its lien in connection with any action taken by the movant against the subject property pursuant to this order. However, this Court makes no determination as to the validity, priority, or amount of the subordinate liens, and

IT IS FURTHER ORDERED that Movant shall deliver any surplus money to the case trustee promptly after the consummation of a foreclosure sale of the subject real property and, if there is surplus money, serve the case trustee with an accounting of the sale promptly after its consummation.

Dated: _____

BY THE COURT

Honorable Colleen A. Brown

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

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John B. Gales and Robin L. Gales)
Debtor)
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)
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CERTIFICATION OF SERVICE

The undersigned (the "Movant") hereby certifies that, on or before the 25th day of April, 2019, 1) a copy of the Motion for Relief and Proposed Order, and 2) a copy of the Notice of Motion under Default Procedure were served to the following:

John B. Gales and Robin L. Gales
Debtor
32 Hermit Thrush Lane
South Burlington, VT 05403
Via First Class Mail

Heather Z. Cooper, Esq.
Debtor's Attorney
Via Electronic Notice of Filing

U.S. Trustee
Via Electronic Notice of Filing

Douglas J. Wolinsky, Esq.
Trustee
Via Electronic Notice of Filing

Quechee Lakes Landowners' Association, Inc.
c/o Douglas K. Riley, Esq.
Lisman Leckerling, P.C.
PO Box 728
Burlington, VT 05402
Via First Class Mail

Ledyard National Bank
Attn: Chief Financial Officer
38 Main Street
Hanover, NH 03755
Via First Class Mail

U.S. Bank National Association, as Trustee
for Structured Adjustable Rate Mortgage Loan
Trust, Mortgage Pass-Through Certificates,
Series 2006-4

By /s/Andrew S. Cannella
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